

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

**URGENT BY FAX (7 pages)**

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**MAY 24 2006**

In re Application of: HAMMER, Mordechai

Serial No. : 08/894,211

Filed : July 30, 1997

For : **EXTENSIBLE AND RETRACTABLE  
ELEMENTS AND VARIOUS USES FOR THE ELEMENTS**

Group Art Unit 3626  
Examiner: John B. Walsh

Ramat-Gan, Israel  
May 24, 2006

Hon. Commissioner of Patents and Trademarks  
Washington, D.C. 20231

Sir:

**URGENT - BY FAX**

Dear Mr. John B. Walsh,

1. Your Office Action mailed April 11 2006 arrived to my P.O.Box post office address very late and after more then one month - in the date of May 15, 2006. (See the signature of the post office in Israel on the envelop of your Office Action – documents A1-A2).
2. I tried immediately to call you in this day of May 15, 2006, and to talk with you over the phone about this problem and to ask you what I have to do.
3. But you were not there, and so I left you a telephone messages every day this week and also sent you an email about this problem.
4. Please let me know what I have to do.
5. I called also Mr. Zami Maung and Mr. Pinchus Laufer and they tried to help me with instructions - but the situation is more complicated.

6. Mr. Zarni Maung told me that I have to buy an extension of time but Mr. Pinchus Laufer told me that I don't have to buy time under rule 710.06 part 2 (II) (see documents B1-B3). which gives me a **"RESET A PERIOD FOR REPLY DUE TO A POSTMARK DATE LATER THAN THE MAIL DATE PRINTED ON AN OFFICE ACTION"**
6. You marked paragraph No. 4 in your Office Action indicating that I need to do what is written there in this paragraph.
7. The problem is that I am not having all the documentation of this patent application (and also my other patents and patent applications) because Mr. Edward Langer, My former patent lawyer, did not give me all of my documentation when I fired him and finished to work with him.
8. That is why I need all of my documentation in this patent application No. 08/894,211 and particularly the last claims of my patent application and then I will make the changes in the claims as you ask it in your Office Action - paragraph No. 4. (Are the set of claims that you have sent me in your Office Action from the date of 08/08/2005 the right set of claims to mark the changes as you asked it in your last Office Action ?)
9. Looking forward for your fast help and instructions so that I'll understand what I have to do because I don't want to loss my rights in my inventions and also because I am not to blame for this late arrival of this Office Action and the documents that I don't have.
10. Thank you in advance for any help in this situation and please let me know if I can have all my documentation from the USPTO or at least the last set of my claims - so that I will make the changes in claim 50 as it was requested in your last Office Action.

Thank you again in advance,

Mordechai Hammer

*Mordechai Hammer*

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## Organization

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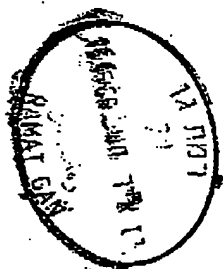
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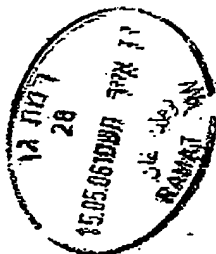
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PAGE 4/7 : RCVD AT 5/24/2006 12:10:09 PM [Eastern Daylight Time] : SVR:USPTO-EFAXRF-5/13 : DNIS:2738300 : CSID:972 3 5748867 : DURATION (mm-ss):04-10



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## **710.06 Situations When Reply Period Is Reset or Restarted [R-3] - 700 Examination of Applications**

### **710.06 Situations When Reply Period Is Reset or Restarted [R-3]**

Where the citation of a reference is incorrect or an Office action contains some other \*->error that affects applicant's ability to reply to the Office action< and this error is called to the attention of the Office within 1 month of the mail date of the action, the Office will restart the previously set period for reply to run from the date the error is corrected, if requested to do so by applicant. If the error is brought to the attention of the Office within the period for reply set in the Office action but more than 1 month after the date of the Office action, the Office will set a new period for reply, if requested to do so by the applicant, to substantially equal the time remaining in the reply period. For example, if the error is brought to the attention of the Office 5 weeks after mailing the action, then the Office would set a new 2-month period for reply. The new period for reply must be at least 1 month and would run from the date the error is corrected. See MPEP § 707.05(g) for the manner of correcting the record where there has been an erroneous citation.

Where for any reason it becomes necessary to refile any action ( MPEP § 707.13), the action should be correspondingly redated, as it is the remailing date that establishes the beginning of the period for reply. *Ex parte Gourtoff*, 1924 C.D. 153, 329 O.G. 536 (Comm'r Pat. 1924). For Image File Wrapper (IFW) processing, see IFW Manual.

A supplementary action after a rejection explaining the references more explicitly or giving the reasons more fully, even though no further references are cited, establishes a new date from which the statutory period runs.

If the error in citation or other defective Office action is called to the attention of the Office after the expiration of the period for reply, the period will not be restarted and any appropriate extension fee will be required to render a reply timely. The Office letter correcting the error will note that the time period for reply remains as set forth in the previous Office action.

See MPEP § 505, § 512, and § 513 for U.S. Patent and Trademark Office practice on date stamping documents.

In the event that correspondence from the Office is received late (A) due to delays in the U.S. Postal Service, or (B) because the mail was delayed in leaving the USPTO (the postmark date is later than the mail date printed on the correspondence), applicants may petition to reset the period for reply, which petition shall be evaluated according to the guidelines which follow. Where the Office action involved in the petition was mailed by a Technology Center (TC), the authority to decide such petitions has been delegated to the TC Director. See Notice entitled "Petition to reset a period for response due to late receipt of a PTO action," 1160 O.G. 14 (March 1, 1994).

[http://www.uspto.gov/web/offices/pac/mpep/documents/0700\\_710\\_06.htm](http://www.uspto.gov/web/offices/pac/mpep/documents/0700_710_06.htm)

16/05/2006

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FAX NO. : 972 3 5748867

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**I. PETITIONS TO RESET A PERIOD FOR REPLY DUE TO LATE RECEIPT OF AN OFFICE ACTION**

The Office will grant a petition to restart the previously set period for reply to an Office action to run from the date of receipt of the Office action at the correspondence address when the following criteria are met:

(A) the petition is filed within 2 weeks of the date of receipt of the Office action at the correspondence address;

(B) a substantial portion of the set reply period had elapsed on the date of receipt (e.g., at least 1 month of a 2- or 3-month reply period had elapsed); and

(C) the petition includes (1) evidence showing the date of receipt of the Office action at the correspondence address (e.g., a copy of the Office action having the date of receipt of the Office action at the correspondence address stamped thereon, a copy of the envelope (which contained the Office action) having the date of receipt of the Office action at the correspondence address stamped thereon, etc.), and (2) a statement setting forth the date of receipt of the Office action at the correspondence address and explaining how the evidence being presented establishes the date of receipt of the Office action at the correspondence address.

There is no statutory requirement that a shortened statutory period of longer than 30 days to reply to an Office action be reset due to delay in the mail or in the Office. However, when a substantial portion of the set reply period had elapsed on the date of receipt at the correspondence address (e.g., at least 1 month of a 2- or 3-month period had elapsed), the procedures set forth above for late receipt of action are available. Where an Office action was received with less than 2 months remaining in a shortened statutory period of 3 months the period may be restarted from the date of receipt. Where the period remaining is between 2 and 3 months, the period will be reset only in extraordinary situations, e.g., complex Office action suggesting submission of comparative data.

**II. PETITIONS TO RESET A PERIOD FOR REPLY DUE TO A POSTMARK DATE LATER THAN THE MAIL DATE PRINTED ON AN OFFICE ACTION**

The Office will grant a petition to restart the previously set period for reply to an Office action to run from the postmark date shown on the Office mailing envelope which contained the Office action when the following criteria are met:

(A) the petition is filed within 2 weeks of the date of receipt of the Office action at the correspondence address;

(B) the reply period was for payment of the issue fee, or the reply period set was 1 month or 30 days; and

(C) the petition includes (1) evidence showing the date of receipt of the Office action at the correspondence address (e.g., copy of the Office action having the date of receipt of the Office action at the correspondence address stamped thereon, etc.), (2) a copy of the envelope which contained the Office action showing the postmark date, and (3) a statement setting forth the date of receipt of the Office action at the correspondence address and stating that the Office

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action was received in the postmarked envelope.

The provisions of 37 CFR 1.8 and 1.10 apply to the filing of the above-noted petitions with regard to the requirement that the petition be filed within 2 weeks of the date of receipt of the Office action.

The showings outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been delayed after receipt rather than a conclusion that the Office action was delayed in the mail or in the Office.

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